



#35 Rec'd 1/36
D.A.C.
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this PETITION TO REVIVE APPLICATION and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date indicated below with sufficient postage as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Nancy Malsich

Nancy Malsich

11/22/02

Date of Deposit

Applicant: Maruyama, et al.

)

) Examiner: G. Leffers, Jr.

Serial No.: 08/852,020

)

) Art Unit: 1636

Filed: May 6, 1997

)

Title: LAMBDOID BACTERIOPHAGE VECTORS) Our Ref. No.: 432.0 D1
FOR EXPRESSION OF FOREIGN)
PROTEINS)

)

PETITION TO REVIVE APPLICATION
UNDER 37 CFR §1.137(b)

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

Applicant hereby petitions under 37 CFR 1.137(b) to revive the above-identified patent application, which was unintentionally abandoned for failure to include a proper response with the Request for Continued Examination (RCE) filed July 12, 2002.

Enclosed herewith is a Preliminary Amendment and a check in the amount of \$1,280.00 for payment of the petition fee as set forth in 37 CFR 1.17(m).

Applicant submits that the delay in filing the required response as required under 37 CFR § 1.114 was unintentional.

11/29/2002 CVO111 00000088 08852020

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1280.00 OP

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NOV 29 2002

OFFICE OF PETITIONS

Serial No. 08/852,020

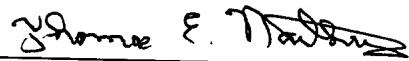
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TSRI 432.0 D1

Please charge any additional fee or credit any overpayment concerning this matter to our Deposit Account No. 19-0962.

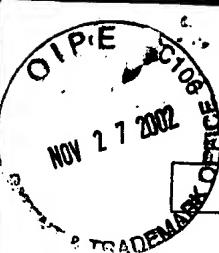
11-22-02

Date



Thomas E. Northrup, Reg. No. 33,268

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United States

Commissioner for Patents

Patent and Trademark Office

Washington, D.C. 20231

www.uspto.gov

APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

RECEIVED

NOV 29 2002

OFFICE OF PETITIONS

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 7-12-02 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to: Katrina Turner - 703-305-3413

for

Zeta Adams

Examining Group 1636

(703) 305-3921

FORM PTO-2051 (Rev. 3/2001)